

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 676

Repealing and Reenacting
Administrative Rule 12(d)(2),
Relating to Constitutionally
Required Appointments

IT IS ORDERED:

Administrative Rule 12(d)(2) is repealed and reenacted to read:

(2) Constitutionally Required Appointments.

(A) If the court determines that counsel, a guardian ad litem, or other representative should be appointed for an indigent person, and further determines that the appointment is not authorized by AS 18.85.100(a) or AS 44.21.410, but in the opinion of the court is required by law or rule, the court shall appoint an attorney who is a member of the Alaska Bar Association to provide the required services. Other persons may be appointed to provide required services to the extent permissible by law.

(B) Appointments may be made in the following types of cases without prior approval of the administrative director, but only in cases in which the required services would not otherwise be provided by a public agency:

(i) Attorneys for biological parents in adoption cases to the extent required by the Indian Child Welfare Act (25 USC 1901 et. seq.),

(ii) Attorneys for minor children and indigent parents or custodians of minor children in minor guardianship cases brought pursuant to AS 13.26.060(d),

(iii) Attorneys for respondents in protective proceedings brought pursuant to AS 13.26 in which appointment of the Office of Public Advocacy is not mandated by statute,

(iv) Attorneys for minor children or incompetents who are heirs or devisees of estates in cases in which the attorneys' fees cannot be paid as a cost of administration from the proceeds of the estate,

(v) Attorneys for indigent putative fathers in actions to establish paternity in which the state of Alaska provides representation for mothers,

(vi) Attorneys to represent indigent respondents in involuntary alcohol commitments brought pursuant to AS 47.37.

In all other cases, the court shall inform the administrative director of the specific reasons why an appointment is required prior to making the appointment.

(C) The presiding judge shall designate the area court administrator and a clerk of court for each court location in the district to keep and make available to the court in each location lists of attorneys or other persons eligible to receive court appointments under section (2) of this rule.

The attorney lists will first be compiled from names of persons who have volunteered to accept these appointments. If there are insufficient volunteers, the court will make appointments on a rotation basis from lists of

eligible attorneys obtained from the Alaska Bar Association. The court may, in departing from a strict rotation basis, take into account the complexity of the case and the level of experience required by counsel.

Lists of other persons available to provide required services will be compiled from names of qualified persons who have indicated their willingness to provide the required services.

(D) When the court appoints an attorney or other person under the provisions of section (7) of this rule, the clerk of the court from which the appointment was made shall immediately send a copy of the appointment order to the administrative director.

(E) All claims for compensation must be submitted within 30 days following the disposition of a case on forms provided by the court. Claims will be submitted to the assigned trial judge, who shall make a recommendation regarding approval and forward the recommendation to the administrative director. The administrative director shall approve or disapprove the claim.

(F) Attorneys will be compensated at the rate of \$40.00 per hour; provided, that total compensation for any case will not exceed \$500 without prior approval of the administrative director.

(G) A person other than an attorney appointed to provide services will receive compensation if the court deems it appropriate not to exceed \$25.00 per hour; provided, that total compensation for any case will not exceed \$300 without prior approval of the administrative director.

(H) Extraordinary expenses will be reimbursed only if prior authority has been obtained from the administrative director, upon recommendation by the assigned trial judge or the presiding judge. The assigned trial judge may recommend extraordinary expenses up to a total amount not to exceed \$1,000.00, and the presiding judge may recommend an amount not to exceed an additional \$1,500.00. Extraordinary expenses exceeding \$2,500.00 may be authorized only in extremely complex cases by the administrative director upon the recommendation of the presiding judge. In this paragraph, "extraordinary expenses" are limited to expenses for:

- (1) Investigation;
- (2) Expert witnesses; and
- (3) Necessary travel and per diem expenses. Travel and per diem may not exceed the rate authorized for state employees.

(I) If necessary to prevent manifest injustice, the administrative director may authorize payment of compensation or expenses in excess of the amounts allowed under this rule.

(J) To the extent required by the Soldiers & Sailors Civil Relief Act (50 USCA §520), attorneys will be appointed to represent litigants from lists of eligible attorneys provided by the Alaska Bar Association, as provided in (2)(C), above. No compensation will be paid from state funds for these appointments.

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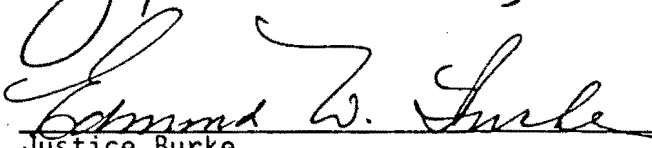
Effective Date: 4/25/86

DATED: 4/9/86

EFFECTIVE DATE: 4/25/86



Chief Justice Rabinowitz



Justice Burke



Justice Matthews



Justice Compton



Justice Moore